



Office for Democratic Institutions and Human Rights

**REPUBLIC OF ESTONIA
PARLIAMENTARY ELECTIONS
2 MARCH 2003**

**OSCE/ODIHR
NEEDS ASSESSMENT MISSION REPORT
2-5 FEBRUARY 2003**



**Warsaw
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TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	EXECUTIVE SUMMARY	1
III.	FINDINGS	2
A.	POLITICAL CONTEXT	2
B.	FUNDAMENTAL FREEDOMS	3
1.	<i>Freedom of Expression</i>	3
2.	<i>Freedom of Assembly</i>	3
3.	<i>Freedom of Association</i>	4
C.	ELECTION LEGISLATION AND ADMINISTRATION	4
1.	<i>Election Legislation</i>	4
2.	<i>Election Administration</i>	6
D.	MEDIA	6
E.	NATIONAL MINORITIES	7
IV.	CONCLUSIONS AND RECOMMENDATIONS	8
	ANNEX: LIST OF MEETINGS	10

REPUBLIC OF ESTONIA

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OSCE/ODIHR Needs Assessment Mission Report

I. INTRODUCTION

Following the receipt of an invitation from the Permanent Mission of the Republic of Estonia to the OSCE to observe the 2 March 2003 parliamentary elections, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) undertook a Needs Assessment Mission (NAM) to Estonia between 2-5 February. The NAM was composed of Hrair Balian, Head of ODIHR Election Section, Nicolas Kaczorowski, ODIHR Election Adviser, Stephan Heidenhain, ODIHR Legal Expert, and Falk Lange, Senior Adviser at the Office of the OSCE High Commissioner on National Minorities.

The purpose of the NAM was to assess the conditions and preparations for the elections, and to advise on the level of ODIHR involvement in these elections.

The NAM held meetings in Tallinn with representatives of the authorities, election administration, judiciary, political parties, media, and the resident diplomatic community (see Annex for list of meetings).

The OSCE/ODIHR is grateful to the Permanent Mission of the Republic of Estonia to the OSCE and to the Ministry of Foreign Affairs for the assistance provided before and during the NAM.

II. EXECUTIVE SUMMARY

Following the 1999 parliamentary elections, the Parliament (*Riigikogu*) amended the Election Act, addressing a number of concerns raised by the OSCE/ODIHR. Some recommendations, such as the removal of language proficiency for candidates, have been implemented.

The Election Act provides for a comprehensive, solid and consistent framework for the conduct of democratic elections. Some technical concerns, however, remain. The OSCE/ODIHR will publish shortly a comprehensive assessment of the 2002 Election Act, including recommendations for further improvements.

The use of minority languages during the election campaign and for voter education/information is not regulated in the Act. While the use of minority languages, especially Russian, is accepted during the campaign, voter information and education is only in Estonian.

All political parties expressed a high level of confidence in the professionalism and impartiality of the election administration that functions in full transparency. Following the 2002 local elections, no concerns were raised for the forthcoming elections.

The media are free and pluralistic. Despite the lack of media provisions in the Election Act, the public television, ETV, strives to give equal opportunities to all electoral contestants and to cover the election campaign impartially. No complaints were received on the conduct of print and electronic media.

The high number of non-Estonian citizens and stateless persons is of concern. Naturalization remains a slow and lengthy process (about 15 months after the submission of appropriate documents). These factors do not promote the more effective participation of national minorities in public life.

However, the inclusion of candidates from national minorities in civic party lists and the increased campaigning in the Russian language seem to indicate an improving integration of national minorities in the political life of Estonia.

Under these circumstances, the NAM concluded that the deployment of an ODIHR observation mission is not necessary for the 2 March parliamentary elections.

III. FINDINGS

The OSCE/ODIHR observed the 5 March 1995 and the 7 March 1999 parliamentary elections in Estonia. In the last elections to the *Riigikogu* (Parliament), the OSCE/ODIHR concluded that “these elections were held in accordance with Estonia’s OSCE commitments and with Estonian law. They were conducted in a transparent manner, enjoying the confidence of political parties and the public.”

A. POLITICAL CONTEXT

On 26 November 2002, the President of the Republic of Estonia, Arnold Rüütel announced that the elections to the *Riigikogu* (Parliament) will take place on 2 March 2003. Although 19 political parties are eligible to compete in these elections, according to the National Electoral Committee (NEC) 11 political parties registered 947 candidates as well as 16 independent candidates. 21.5% of candidates are women.

The Centre Party has the largest block in the outgoing Parliament with 29 MPs followed by the Reform Party with 19 MPs, Fatherland Union 18, the Moderates (Moodukad) 17, the Estonian People’s Union 12, and the Estonian United Russian People’s Party 3.

In early January 2002, the coalition government resigned. This coalition, made up of the Fatherland, Moderate and Reform Parties, had been in power since March 1999. The current government took office in late January 2002 and is formed by the Reform Party and the Centre Party.

The November 2002 municipal election results have revealed some changes in the Estonian political scene. The Centre Party obtained 25.8% of the votes and consolidated its status of leading party in the country. The Reform Party with 12.2% of the votes came behind the newly created Res Publica that gained 15.2% of the votes. People’s Union obtained 11.2%.

Fatherland and the Moderates, however, saw their support waning with respectively 6.6% and 4.4% of the votes.

In 2001, the European Commission (EC) recognized that since 1997, Estonia “has made considerable progress in further consolidating and deepening the stability of its institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.” The EC *Regular Report on Estonia’s Progress Towards Accession* (9 October 2002) reiterated these conclusions.

On 14-15 December 2002, at the Copenhagen Summit, Estonia along with nine other States, was invited to join the European Union (EU) in May 2004. On 18 December, The Parliament scheduled a referendum on EU membership for 14 September 2003.

B. FUNDAMENTAL FREEDOMS

In its 1997 Opinion on Estonia’s candidature for EU membership, the European Commission concluded that “there are no major problems over respect for fundamental rights.”

1. Freedom of Expression

Freedom of expression is enshrined in the Constitution: Article 45 prohibits censorship and provides that “everyone has the right to freely disseminate ideas, opinions, beliefs and other information by word, print, picture or other means.”

The activities of electronic media in the Republic of Estonia are regulated by the Broadcasting Act which came into force on 15 June 1994.

According to the UN Human Rights Committee, there are no restrictions in Estonia on founding and publishing newspapers and magazines. Newspapers and magazines may also be published by political parties. There are no restrictions on the distribution of newspapers and magazines.¹

According to the 2002 European Commission Report, freedom of expression is generally respected in practice.²

2. Freedom of Assembly

Article 47 of the Constitution protects the freedom of assembly: “Everyone has the right, without prior permission, to assemble peacefully and to conduct meetings.” In addition to the Constitution, the Public Assemblies Act regulates the right to peaceful assembly. Firstly, it guarantees people's right to assemble peacefully and to conduct meetings in accordance with fundamental rights, freedoms and duties and the principles of a democratic country governed by rule of law. Secondly, it establishes restrictions for organising and

¹ Human Rights Committee, International Covenant on Civil and Political Rights, Addendum, Estonia, CCPR/C/EST/20002/2, 27 May 2002.

² The *Regular Report on Estonia’s Progress Towards Accession*, European Commission, Brussels, 9 October 2002.

conducting of public meetings that are necessary to ensure national security, public order, morals, traffic safety, and the safety of participants in a meeting, or to prevent the spread of an infectious disease.

3. Freedom of Association

The Freedom of Association is enshrined in Article 48 of the Constitution: “Everyone has the right to form non-profit associations. Only Estonian citizens may belong to political parties.” The fact that non-Estonian citizens cannot belong to a political party restricts the freedom of association and impedes the more effective participation of national minorities in the political life of the country. This restriction should be lifted for non-Estonian citizens and for stateless persons permanently residing in Estonia.

The Political Parties Act that entered into force on 16 June 1994 and amended in 2002 regulates the foundation and organisation of activities of political parties and financing of political parties. Article 4 of the Act sets the restrictions for activities of political parties. Political parties whose objectives or activities are directed at changing the constitutional order or territorial integrity of Estonia by force, or are otherwise contrary to criminal law, are prohibited.

C. ELECTION LEGISLATION AND ADMINISTRATION

1. Election Legislation

In its 1999 Final Report, the OSCE/ODIHR expressed concern about late amendments to the legislative framework. In addition, the ODIHR concerns included 1) requirements concerning proficiency in the State language by candidates for election to Parliament, 2) the number of non-Estonian citizens or stateless persons who do not have the right to vote, and 3) the prohibition of pre-electoral coalitions. Other linguistic issues such as the use of minority languages for campaign materials, and voter education/information, were also identified.

The Final Report also contained several recommendations, including reconsideration of the language proficiency requirements for candidates; clarification of the rules concerning the language of campaign materials, especially the use of minority languages, at least in combination with Estonian; greater provision of voter information materials in minority languages; and clear identification in newspapers of articles sponsored by political parties.

The OSCE/ODIHR welcomes the implementation of some recommendations in the new Election Act adopted by the *Riigikogu* in June 2002 that replaced the 1994 Election Act.

Language Issues

In a positive step, candidates’ proficiency requirement in the State language was removed from the Act in November 2001 for local and parliamentary elections. However, State language proficiency requirement for an election commission member and parliamentarians could become the basis for their removal or disciplinary action. The Election Act does not define the level of proficiency required. Additionally, this provision does not take into account that, for instance, Russian is widely used in the North East of the country.

The Act does not clarify the application of the Language Law to campaign materials. Nonetheless, the Mission was informed that, despite Article 23 of the Language Act,³ election campaigns can be conducted in minority languages, provided that the Estonian translation appears on campaign material.

Nothing in the Election Act ensures the use of minority languages (especially Russian) for voter education and information. According to the Constitution, official documents can only be in Estonian. Nevertheless, in practice, Russian continues to be used in the courts and in the administration in those areas where Russian-speakers represent a majority of the local population. The OSCE/ODIHR believes that the legislation should allow similar practice in the field of elections.

Citizenship and the Right to Vote

The inability of non-citizen residents of Estonia to participate in parliamentary elections excludes a large segment of the resident population, which includes some 270,000 persons with citizenship of another State (mainly the Russian Federation) or who are stateless. While this issue cannot be addressed through the election process, it poses serious concerns for their representation in public life.

The OSCE/ODIHR welcomes that certain non-citizen residents of Estonia have the right to participate in local council elections. Persons who are not nationals of Estonia or the European Union may not run as candidates in those elections, but can exercise the right to vote provided they reside in Estonia on the basis of a permanent residence permits, and have legally resided in the corresponding rural municipality or city for at least the preceding five years.⁴ The right to vote is also granted to stateless persons (about 170,000 persons).

Pre-electoral Coalitions

Invoking a Supreme Court decision, the Legal Chancellor obliged the *Riigikogu* to amend the Local Government Election Act to allow pre-election coalitions. For the parliamentary elections, the prohibition remains because none of the political parties have complained.

Transparency Measures

The Election Act includes strong transparency provisions. Meetings of election commissions are public and anyone can have access to election documents. Many of those are posted on the National Electoral Committee (NEC) website.⁵ Counting and verification of results are public. A few days after elections, the detailed results per Division and County Committees will be published on the NEC web page. The NEC has adopted a regulation on the status of partisan, non-partisan domestic and international observers.

Campaign Financing Issue

Political parties do not receive State funding, except those represented in Parliament. Some smaller parties were concerned about their difficulties to procure funds and about the possible influence of economic interest over political decisions. Furthermore, the Election Act does not include any limits for campaign expenditures. Some interlocutors of the NAM called for setting a clear ceiling of spending with reinforced financial disclosure provisions

³ "Public signs, signposts, announcements, notices and advertisements shall be in Estonian, except in the cases provided for in §§ 13, 15 and 18 of this Act and upon organization of international events."

⁴ Local Government Council Election Act, Art. 5(2)

⁵ For further information, see <http://www.vvk.ee/>.

in order to increase the accountability and transparency of campaign financing. They also urged strict enforcement mechanisms.

In conclusion, the Election Act provides for an adequate, detailed, consistent and solid legislative framework for the conduct of democratic elections. Some concerns, however, remain. The OSCE/ODIHR will publish shortly a comprehensive assessment of the 2002 Election Act that will contain additional recommendations.

2. Election Administration

Election administration is carried out by a three-tiered election commission structure – the National Election Committee (NEC), County and City election committees (CEC), and division committees (DC).

The NEC is composed of seven members as follows: Judge of the Court of First Instance, Judge of a Court of Appeal, Advisor to the Legal Chancellor, Official of the State Audit Office, a public prosecutor, an official of the Parliamentary Chancellery, and an official of the State Chancellery.

CECs consist of 13 members. The County Secretary serves as CEC chairman, and the county Governor appoints the remaining members on the proposal of the Secretary. For the cities of Tallinn and Tartu, the CEC Chairman is the corresponding City Secretary. The other members of the CEC are appointed by the City Council upon the proposal of the City Secretary, as are four alternates.

DCs may have up to nine members. The chairman and half of the other members are appointed by resolution of the local government council. The other half of the members are appointed by the political parties participating in the elections.

Members of election committees are prevented from campaigning for or against political parties, and must be independent in the performance of their duties.

While the NEC and CEC composition is based on the non-partisan and professional model, DCs are multi-party commissions. The election administration functions efficiently and in full transparency. Political parties have expressed their full confidence in the impartial and professional administration of these elections.

D. MEDIA

The media is free and pluralistic in Estonia, and journalists function without hindrances.

The Election Act does not regulate the election campaign, is almost silent on access to the media during elections and does not provide for free airtime to parliamentary candidates. The conduct of the media during an election campaign is not regulated in the election legislation or in NEC instructions. However, the Broadcasting Act establishes that the National Broadcasting Council (NBC) is competent to “establish the procedure for election campaigns conducted through the public radio and television during the elections of the President of the Republic, the Riigikogu and local governments.”⁶ Similarly, the Estonian

⁶ Broadcasting Act, 1994 amended in 2000, Article 32.17.

Newspapers Association (ENA) adopted recommendations that print media should follow during the campaign.

The NBC issued guidelines stipulating that ETV should provide comprehensive information to voters and should follow the principles of political balance and impartiality. It should also cover the official NEC announcements and must not broadcast paid political advertisement. Private media are not subject to these guidelines or any other restrictions, but they seem to respect a certain balance in their coverage. ETV decided, in consultation and agreement with all major political parties, to organize two discussion programs (one hour) per week with two or three parties invited on a rotating basis.

On 23 January 2003, the ENA recommended that print media should abide by journalistic best practices. The editorial staff should establish the rules followed by their newspaper during the campaign and publish them to inform the readers. The ENA recalled *inter alia* that newspapers should provide space to candidates on an equal basis and should notify readers when they post paid political advertisement. Finally, journalists who run as candidates should step down as political or news reporters to safeguard the credibility of the press. The ENA also suggested to apply special caution when publishing opinion polls and to disclose all necessary information.

If political parties have a complaint about the public television not covering the campaign impartially, they can address their complaints to the ETV Head of Current Affairs. In contrast to 1999, ETV has so far not received any complaints, nor has the NEC. Likewise, political parties did not express any concerns related to the media coverage of the pre-election campaign. The system is largely self-regulated and appears to function well.

E. NATIONAL MINORITIES

Estonia has a large Russian minority. 67.9% (930,000) of the 1,37 million Estonian population are ethnic-Estonians whereas 25.6% (350,000) are ethnic Russians. Ukrainians, Bielorrussians and Finns among others constitute 4.5% (60,000).

In terms of citizenship, 80% of the population are citizens of Estonia, 7% (97,300) are citizens of other countries (mainly Russia 6.3%) and 12.4% (172,000) are stateless. Since independence, one of Estonia's main challenges has been the integration of its national minorities.

Estonia has a restrictive definition of national minorities that was criticized by the Council of Europe Advisory Committee for the Protection of National Minorities. It "understands the term "national minorities" as follows: are considered as "national minority" those citizens of Estonia who reside on the territory of Estonia; maintain longstanding, firm and lasting ties with Estonia; are distinct from Estonians on the basis of their ethnic, cultural, religious or linguistic characteristics; are motivated by a concern to preserve together their cultural traditions, their religion or their language, which constitute the basis of their common identity."⁷

⁷ Advisory Committee on the Framework Convention for the Protection of National Minorities, Opinion on Estonia, 14 September 2001.

The Advisory Committee recommended that “Estonia should re-examine its approach and consider the inclusion of additional persons belonging to minorities, in particular non-citizens, in the application of the Framework Convention for the Protection of National Minorities.”⁸

In 2001, the European Commission asserted that “Estonia has continued to make progress with the implementation of concrete measures for the integration of non-citizens.” In June 2002, the Committee of Ministers of the Council of Europe came to the same conclusion stating that “Estonia had made efforts to implement the Framework Convention and had paid increasing attention to the integration of persons belonging to national minorities.”⁹

At the same time, the Committee of Ministers pointed out shortcomings related to the use of minority languages despite recent legislative improvements and related to the slow process of naturalization. The number of stateless persons remains high in Estonia: about 172,000 (12.4% of the population) are without determined citizenship.

The rate of naturalization appears to have stabilized at a level of around 3,000- 4,000 persons per year. Since the Citizenship Law entered into force in 1992, around 117,000 persons have been granted Estonian citizenship. In 2002, 4,091 persons have acquired Estonian citizenship (against 3,090 persons in 2001). Although the Law on Citizenship is in line with international standards, naturalization remains a lengthy administrative procedure (more than 15 months after submitting the relevant documents).

Political parties increasingly include ethnic Russians in their candidates lists and in party structures although they are hardly in position to be elected or in leadership positions. “Civic” parties progressively appeal to voters of origins other than Estonian in taking into consideration their interests and in some cases translating political platforms in Russian. However, a number of interlocutors expressed concern that deputies of origins other than Estonian in the new Parliament may be even fewer than in 1999 when six ethnic Russians were elected.

IV. CONCLUSIONS AND RECOMMENDATIONS

The NAM concluded that the deployment of an election observation mission for the 2 March parliamentary elections cannot be justified. Consequently, the OSCE/ODIHR will not request long-term and short-term observers to the OSCE participating States.

Nonetheless, the OSCE/ODIHR offers the following recommendations for consideration in conjunction with the OSCE/ODIHR assessment of the Election Act to be published shortly.

- Voter information, especially voter cards and ballot papers should be translated into other languages than Estonian especially in areas where a national minority is predominant. This will ensure a better access to information for voters and might increase their political participation.

⁸ *Op. Cit.*

⁹ Resolution ResCMN(2002)8, 13 June 2002.

- Article 11 (1)¹⁰ of the Election Act should specify the level of proficiency required.
- Estonia should remove the prohibition for non-Estonian nationals to belong to a political party and enable stateless and other nationals, who fulfill certain requirements (i.e., residence requirements) to be members of a political party.
- The authorities should examine ways to increase the effective representation of national minorities in Parliament and other political institutions.
- Campaign spending and enforcement mechanism should be elaborated so as to promote transparency and accountability of campaign financing.

¹⁰ “A member of an electoral committee shall be proficient in Estonian.”

ANNEX: List of Meetings

Ministry of Foreign Affairs

Ms Tiina Intelmann, Deputy Under-Secretary, Political Affairs, Ministry of Foreign Affairs (MFA)

Ms Gea Rennel, Director General of the 1st Political Department, MFA

Mr. Andrei Valentinov, OSCE Desk Officer, 1st Political Department, MFA

Legal Chancellor

Mr. Allar Jõks, Legal Chancellor

Mr. Lauri Malksoo, Adviser to the Legal Chancellor

Election Administration

Mr. Heiki Sibul, Chairman of Estonian National Electoral Committee (NEC)

Mr. Mihkel Pilving, Head of Elections Department, NEC

Political Parties

Mõõdukad party

Mr. Jõrgen Siil, Member of Board

Mr. Jüri Tamm, Member of Parliament

Estonian United People's Party

Mr. Jevgeny Tomberg, Chairman

Mr. Anatoly Egorov, Board Member

Mr. Georgy Bystrov, Mayor of Maardu city

Mr. Andrei Arjupin, Board member

Estonian People's Union

Mr. Jaan Pöör, Chairman

Mr. Tiit Käbin, Member of Parliament

Mr. Tiit Tammsaar, Chairman of the Defence Committee

Fatherland Union

Mr. Mart Nutt, Chairman

Mrs. Mari-Ann Kelam, Member of Parliament

Party Res Publica

Mr. Marko Mihkelson, Board Member

Mr. Ott Lumi, Political Secretary

Centre Party

Hr. Toomas Alatalu, Minister of Foreign Affairs

Hr. Mart Viisitamm, Executive Secretary

Pr. Vilja Savisaar, Member of the Board

Reform Party

Mr. Urmas Paet, Candidate
Mrs. Iivi Eenmaa, Candidate
Mr. Sergei Ivanov, Candidate

Media

Estonian Public Television (ETV)

Mr. Ilmar Raag, Chairman of the Board, Managing Director
Mr. Juhan Paadam, Head of International Relations Department
Mr. Jaanus Kõusaar, Financial Director
Mr. Tarmo Krimm, Technical Director

Postimees

Ms Kadri Liik, Foreign News Editor
Mr. Erkki Bahovski, Head of Foreign News Desk
Mr. Argo Ideon, Reporter

Estonia

Mr. Mark Levin, Chief Editor
Mr. Aleksandr Schegedin, Journalist
Mr. Dmitry Svjagintsev, Journalist

International Community

H.E. Ambassador Joseph M. DeThomas, U.S. Embassy
H.E. Ambassador John Kjaer, Head of European Commission's Delegation
Ambassadors of the 15 EU Member States
H.E. Ambassador Konstantin Provalov, Embassy of the Russian Federation

ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is the OSCE's main institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Document).

The ODIHR, based in Warsaw, Poland, was created as the Office for Free Elections by the OSCE Heads of State or Government at the 1990 Paris Summit. In 1992, the name of the Office was changed to reflect an expanded mandate to include human rights and democratisation. Today it employs over 80 staff.

The ODIHR is the lead agency in Europe in the field of **election observation**. It coordinates and organizes the deployment of thousands of observers every year to assess whether elections in the OSCE area are in line with national legislation and international standards. Its unique methodology provides an in-depth insight into all elements of an electoral process. Through assistance projects, the ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include the following six thematic areas: rule of law, civil society, freedom of movement, gender equality, trafficking in human beings and freedom of religion. The ODIHR implements more than 100 targeted assistance programs, seeking both to facilitate and enhance State compliance with OSCE commitments and to develop democratic structures.

The ODIHR **monitors** participating States' compliance with OSCE human dimension commitments. It also organizes several meetings every year to review the implementation of OSCE human dimension commitments by participating States.

The ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies. The Office also acts as a clearing-house for the exchange of information on Roma and Sinti issues among national and international actors.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR [website](#), which also contains a comprehensive library of reports and other documents, including all previous election reports and election law analyses published by the ODIHR.